

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Michael I. Rosenfelt and Satin Mirchandani
Serial No.: 10/805,907
Filed: March 22, 2004
Group Art Unit: 2617
Docket No.: 1744-702USPT
Date: March 28, 2007
Title: Method and System for Pending Backup Messages to Wireless
Devices During Outages
Examiner: Justin Ye Lee

DECLARATION UNDER 37 C.F.R. § 1.132

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

I, Michael I. Rosenfelt, hereby declare and say:

1. I am a citizen of the United States and I reside in Travis County, Texas.
2. I am one of the co-inventors of the above-identified patent application.
3. I have been working in the field of email disaster recovery for at least ten years.
4. I am Executive Vice President of MessageOne, Inc. ("MessageOne"), the assignee of the above-identified patent application, and I have been employed by MessageOne since June 1, 2002.
5. MessageOne has been designing and manufacturing email disaster recovery systems since at least as early as March 2002.

6. I am familiar with the above-identified patent application Serial Number 10/805,907 and with the following references cited by the Examiner in connection with the Office Action mailed on February 9, 2007:

- a. U.S. Patent Application No. 2003/0050984 issued to Pickup, et. al. ("*Pickup*")
- b. U.S. Patent Application No. 2004/0054741 issued to Weatherby, et. al. ("*Weatherby*")
- c. U.S. Patent Application No. 2003/0191969 issued to Kastikas ("*Kastikas*")

7. *Pickup* teaches a method and system for redirecting email in which there are two distinct cases: one in which a registered user receives the original email but does not receive a notification and one in which a non-registered user receives a notification but does not receive the original email. This is very different from the email disaster recovery method and system claimed in the above-referenced application in which a user is notified when email is available on a secondary system when the primary system is out, the user is again notified that email is available on the primary system when the primary system has been restored, and email messages received during the outage are synchronized. Specifically:

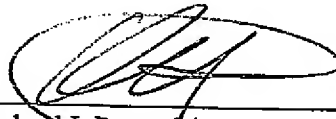
- a. There is not sufficient clarity and detail in *Pickup* to teach a process whereby a user both receives a notification and receives the original email message.
- b. There is no teaching in *Pickup* that a notification is sent to a user when emails are available through the user's primary email system after an outage.
- c. There is no teaching in *Pickup* of synchronizing the email messages on the backup server with the email messages on the primary server after messages have been received on the backup server.
- d. There is no teaching in *Pickup* of a method by which email messages may be intercepted on an address-by-address basis.

8. *Weatherby* teaches a system for limiting unsolicited commercial email. *Weatherby* also teaches that the invention may be adapted for use in limiting telephone call access. The purpose of the invention in *Weatherby* is to limit unwanted email or telephone calls. The purpose of the claimed invention in the above-identified application is to improve email disaster recovery. Accordingly, the purpose of the invention in *Weatherby*, and the problem being solved, are entirely unrelated to the purpose of the claims in the above-identified application.

9. *Kastikas* teaches a system for eliminating unwanted email. The purpose of the claimed invention in the above-identified application is to improve email disaster recovery. Accordingly, the purpose of the invention in *Kastikas*, and the problem being solved, are entirely unrelated to the purpose of the claims in the above-identified application.

That the undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon;

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael I. Rosenfelt", written over a horizontal line.

Michael I. Rosenfelt

Date: 3/28/07